

TAXATION: Property purchased with funds received under World War Compensation Act subject to State and County Taxation.

4-19
April 15, 1937.



Mr. V. C. Rose, Jr.,
Prosecuting Attorney,
Putnam County,
Unionville, Missouri.

Dear Sir:

This department acknowledges receipt of your letter of April 10, 1937, in which you request an opinion as to the following facts:

"One William H. Scott, a disabled world war veteran, received certain compensation under the U. S. Veteran Act of 1924, which subsequently came into the hands of his guardian Lucy Scott of Powersville, Missouri. She evidently loaned a portion of this money taking as security a mortgage on forty acres of land in this county. The mortgagor did not pay, and the mortgage was foreclosed, title resting in William H. Scott.

William H. Scott died about four years ago and over a year ago his brother Harry T. Scott took this forty acres of land as his distributive share of the deceased veteran's estate.

The guardian of William H. Scott paid taxes on his estate for sometime, but discovered a few years ago that it was exempted from taxes by the veterans act and ceased to pay taxes. The assessor and county court raised the question of taxation as the veteran died and the land is now owned by Harry T. Scott, who of course received no veterans compensation. I gave it as my opinion that the land is now subject to taxes, but I would like to have your opinion also.

It does seem to me that if a veteran dies his estate, even in the hands of a distributee, would not be perpetually exempt from taxes.

Mrs. Scott asked if she could recover the taxes erroneously paid before she found out of the exemption. I told her I did not think she could. Is this correct? "

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There is no question but that Congress intended to so surround the fund received under the World War Compensation Act with protection that creditors cannot take it away from the dependents. In other words, the thought became developed among states and nations that for the good of mankind there are instances when it is best that creditors go unpaid in order that certain individuals in society may have a particular source of income dedicated to personal or family sustenance, maintenance and enjoyment. *Andrews v. Bank*, 219 N. W. 62.

However, this exemption, at least as to taxation, ceases if other property be purchased for the World War Veteran's use with money received under the Act. A case precisely in point is that of *State v. Wright (Ala.)* 140 So. 584. In that case certain land was purchased by the guardian of a disabled soldier with money received by the guardian under the World War Compensation Act for the use and maintenance of said soldier. The guardian refused to pay any taxes on this property and the question was finally presented to the Supreme Court of Alabama, wherein it was held:

* ***** it is clear that the exemption ***** does not extend to privately owned property purchased with money arising from such sources and which was at the time of the purchase within the jurisdiction of the state and subject to its powers of taxation. *****

The judgment here is that the lands in question were not exempt from taxation by the state and County of Marshall *****.

CONCLUSION

In view of the foregoing, it is the opinion of this department that the property now owned by Harry T. Scott and originally owned by William H. Scott, a disabled World War Veteran, is subject to taxation by the state and county regardless of the fact that the property was acquired by William H. Scott by means of certain compensation received by him under the United States Veteran's Act of 1924.

Respectfully submitted,

JOHN W. HOFFMAN, JR., Assistant
Attorney General.

APPROVED:

J. E. Taylor
Acting Attorney General